

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JERRY MEANS

Petitioner,

v.

PETER HUIBREGTSE, Warden
Wisconsin Secure Program Facility,

Respondent.

ORDER

11-cv-321-bbc

In an order entered in this case on May 4, 2011, I told petitioner that before I could consider his request to proceed *in forma pauperis* he would have to submit a trust fund account statement covering the six-month period preceding the filing of his petition so that I could assess an initial partial payment of the \$5 filing fee. Petitioner has submitted the requested statement.

In determining whether to allow a prisoner to proceed *in forma pauperis*, this court uses the following formula. First the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, he will not be eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay at least a portion of the filing fee. According to the trust account statement, in the past six months petitioner's average monthly deposits have been \$1.38. (His average monthly balance appears to be less than this amount.) Twenty percent of this figure is \$0.28. Accordingly, I will grant petitioner's application for leave to proceed *in forma pauperis* on the condition that he prepay \$0.28. If

petitioner does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that petitioner is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount petitioner must pay at this time is the \$0.28 initial partial payment. Before prison officials take any portion of that amount from petitioner's release account, they may first take from petitioner's regular account whatever amount up to the full amount petitioner owes. Petitioner should show a copy of this order to prison officials to insure that they are aware they should send his initial partial payment to this court.

ORDER

IT IS ORDERED that the petition of Jerry Means for leave to proceed *in forma pauperis* is GRANTED on the condition that he prepay the amount of \$0.28. Petitioner has until June 2, 2011 to pay this amount. If he fails to submit the partial filing fee by June 2, 2011, his petition may be dismissed for failure to prosecute it.

Entered this 12th day of May, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge